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<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/090,712	SINDHUSHAYANA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Curtis B. Odom	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amdt after final rejection filed on 1/22/07.
2. ☒ The allowed claim(s) is/are 1, 3-5, 7-10, 12-26, 46, 48-71, and 109-114.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|---|--|
| <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____</li> </ol> |
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### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Jian Ma on January 24, 2007.

The application has been amended as follows:

Claim 20. The method as claimed in claim 17, wherein the decreasing a current transmission power margin by a second amount when the pre-determined number of outages did not occur during the pre-determined interval; comprises:

determining whether the estimated rate of data has changed to a minimum allowable rate of data;

setting a quality metric upper limit to the current value of the quality metric; and

decreasing the quality metric by a first value when a pre-determined number of outages occurred during the pre-determined interval.

Claim 21. The method as claimed in claim 20, further comprising:

Art Unit: 2611

increasing the power margin by a second value if the resulting increased power margin is less than the lower limit of the power margin; and

setting the power margin equal to the lower limit of the power margin otherwise.

Claim 24. The method as claimed in claim 16, wherein decreasing a current transmission power margin by a second amount when the pre-determined number of outages did not occur during the pre-determined interval; comprises:

determining whether the estimated rate of data is equal to a minimum allowable rate of data; and

decreasing the quality metric by a value when a pre-determined number of outages did not occur during the pre-determined interval.

Claim 65. The apparatus as claimed in claim 62, wherein the means for decreasing a current transmission power margin by a second amount when the predetermined number of outages did not occur during the pre-determined interval; comprises:

means for determining whether the estimated rate of data has changed to a minimum allowable rate of data;

means for setting a quality metric upper limit to the current value of the quality metric; and

means for decreasing the quality metric by a first value when a pre-determined number of outages occurred during the pre-determined interval.

Art Unit: 2611

Claim 66. The apparatus as claimed in claim 65, further comprising:

means for increasing the power margin by a second value if the resulting increased power margin is less than the lower limit of the power margin; and

means for setting the power margin equal to the lower limit of the power margin otherwise.

Claim 69. The apparatus as claimed in claim 62, wherein the means for decreasing a current transmission power margin by a second amount when the pre-determined number of outages did not occur during the pre-determined interval; comprises:

means for determining whether the estimated rate of data is equal to a minimum allowable rate of data; and

means for decreasing the quality metric by a value when a pre-determined number of outages did not occur during the pre-determined interval.

#### **EXAMINER'S STATEMENTS OF REASONS FOR ALLOWANCE**

2. The following is an examiner's statement of reasons for allowance: Claims 1, 3-5, 7-10, 12-26, 46, 48-71, and 109-114 are allowable over prior art references because related references do not disclose generating an open loop and closed loop estimate of a quality metric, filtering the open loop and closed loop estimates by different filtering methods, summing the filtered open and closed loop estimates, modifying the quality metric by a transmission power margin, and determining a maximum rate of data using the modified quality metric.

Art Unit: 2611

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis B. Odom whose telephone number is 571-272-3046. The examiner can normally be reached on Monday- Friday, 8-5.

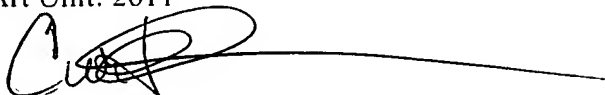
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on 571-272-2988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/090,712

Page 6

Art Unit: 2611

  
Curtis Odom  
January 24, 2007

  
JAY K. PATEL  
SUPERVISORY PATENT EXAMINER